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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/558,880	01/06/2006	Longxiang Bian	13836-00002-US	6060
23416 7590 02/05/2010 CONNOLLY BOVE LODGE & HUTZ, LLP P O BOX 2207 WILMINGTON, DE 19899				
EXAMINER				
ANDLER, MICHAEL S				
ART UNIT		PAPER NUMBER		
2876				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/558,880

Applicant(s)

BIAN, LONGXIANG

Examiner

Michael Andler

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The examiner acknowledges and has entered the amendments/arguments filed on 12 November 2009. Claims 1-7 are currently pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-7 are rejected under 35 U.S.C. 101 as being drawn to non-statutory subject matter.

Regarding claim 1 and its respective dependent claims, claim 1 recites "an optical machine-readable medium comprising...a barcode". A barcode on a machine-readable medium in its broadest reasonable interpretation merely represents a form of stored data and is therefore considered non-functional descriptive material since it does not have a functional relationship to the underlying medium and furthermore would not create a patentable distinction over the prior art (See *In re Ngai* 70 USPQ2d 1862 and Interim Examination Instructions for Evaluating Subject Matter Eligibility under 35 U.S.C. 101 dated August 2009).

Regarding claim 7, the claim is directed to a process "for reading the optical-machine readable medium as claimed in claim 1", however, the claim does not recite a particular machine for implementing the steps of reading, extracting, and determining. Furthermore, in the broadest reasonable interpretation of the claim, the examiner takes the stance that a person of ordinary skill in the art would be capable of performing these

steps since they merely require the ability to recognize areas of symmetry in a barcode in order to determine a particular pattern of symbols within the barcode. Therefore, the claim does not pass the machine or transformation test and is not patent eligible subject matter (See Interim Examination Instructions for Evaluating Subject Matter Eligibility under 35 U.S.C. 101 dated August 2009).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

a) Claims **1 and 2**, drawn to an article of manufacture and related method claims **6 and 7** are rejected under 35 U.S.C. 102(b) as being anticipated by Wang (US 5,243,655).

Regarding claims **1 and 6**, Wang discloses an optical machine-readable medium comprising a two-dimensional bar code recognizable in bidirection (See Fig 3; Fig 16 step 222; and Col 16, lines 25-35), the barcode including:

an encoding region consisting of nodes arranged to form a matrix (See Fig 3, where the intersection of each row and column represents a node),

an encoding information sequence disposed sequentially on said nodes of said matrix to form a two-dimensional path having bilateral symmetry, within said matrix (See Fig 3, where the information is sequentially disposed in the form of a path from left to right and top to bottom), and

a plurality of directional symbols, arranged at specific locations within said encoding information sequence (See Fig 3 where START and STOP represent directional symbols), said specific locations having bilateral symmetry within said matrix (See Fig 3, and Col 6, lines 36-41 where the locations of the START and STOP symbols are bilaterally symmetrical about a vertical plane for all cases in which the number of columns is even),

wherein a combination of said specific locations and values of said directional symbols indicate a direction of said two-dimensional path within said matrix (See Fig 3; Fig 16 step 222; Col 7, lines 34-46; and Col 16, lines 25-35).

Regarding claims **2 and 7**, Wang discloses wherein said directional symbols comprise data symbols and error-correcting symbols (See Fig 3; Fig 16 step 222; Col 7, lines 34-46; and Col 16, lines 25-35, where at least a 3 x 6 matrix represented by the following sequence is bilaterally symmetrical about a vertical plane, where the left and right row indicators represent a form of data symbol and C1 and C2 are error correction codewords):

[START, L0, D4, D3, R0, STOP]

[START, L1, D2, D1, R1, STOP]

[START, L2, C1, C2, R2, STOP]

Response to Arguments

4. Regarding the rejection of claim **1** under 35 U.S.C. 102(a), the applicant has amended claim **1** to clarify that the encoding information sequence is disposed sequentially "to form a two-dimensional path having bilateral symmetry within said

matrix” and has further amended the claim to clarify that the specific locations have “bilateral symmetry within said matrix” and that the specific locations and values “indicate a direction of said two-dimensional path within said matrix”. Applicant has further argued that the previously cited prior art reference of Uhling (US 5,984,193) does not teach these additional limitations.

Applicant’s arguments with respect to the rejection of claim 1 and its respective dependent claims under 35 U.S.C. 102(a) have been considered but are moot in view of the new ground(s) of rejection.

Regarding the rejection of claim 1 under 35 U.S.C. 101, the applicant has amended the preamble of claim 1 to clarify that the subject matter of the claim is directed to an optical machine-readable medium comprising a barcode and has argued that the medium, as amended, is patentable subject matter. The examiner respectfully disagrees.

Regarding applicant’s argument that the medium comprising a barcode is an article of manufacture, the examiner would point out that the structural features that the applicant is relying on in his argument, specifically “ink on paper”, are not recited in the claim and therefore cannot impart structure to the medium in order to qualify as a manufacture.

The examiner would further point out that the language of the claim as recited merely requires “an optical-machine readable medium comprising...a barcode” and respectfully suggests that the applicant consider the case of a computer display, representing an optical machine-readable medium, that displays an image of a barcode

where the barcode is capable of being read by a barcode scanner with a CCD device. In this case, the barcode image clearly does not impart a structural feature to the display and is merely non-functional descriptive material in the form of temporarily displayed data.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Andler whose telephone number is (571) 270-5385 and whose e-mail address is michael.andler@uspto.gov. The examiner can normally be reached on Monday-Friday 7:30 AM to 3:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2876

/Michael Andler/
Examiner, Art Unit 2876

/Michael G Lee/
Supervisory Patent Examiner, Art Unit 2876